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# REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS

## Information received from Governments


| | Paragraphs | Page |
|---|---|---|
| INTRODUCTION ..... | 1 - 3 | 2 |
| I. Information submitted by Governments ..... | 4 - 26 | 3 |
| A. Colombia ..... | 4 - 26 | 3 |

## INTRODUCTION

1. By its resolution 1982/34 of 7 May 1982, the Economic and Social Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a working group on indigenous populations to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually, and to give special attention to the evolution of standards concerning the rights of indigenous populations.

2. The Sub-Commission, in its resolution 1990/26, requested the Secretary-General to transmit the report of the Working Group to Governments. The Commission on Human Rights made the same request in its resolution 1991/59 of 6 March 1991. In accordance with these resolutions, appropriate communications were sent to Governments on 10 December 1990.

3. The present document contains replies received as of 31 May 1991 from Governments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations. Further replies, if any, will be included in addenda to this document.

# I. INFORMATION SUBMITTED BY GOVERNMENTS

## A. Colombia

4. In Colombia, there is a great diversity of ethnic groups, resulting in an incomparably rich national heritage, both culturally and socially. There are at present 81 indigenous groups, comprising over half a million persons, who speak nearly 75 different languages and inhabit 25 per cent of Colombian territory.

5. While it is true that until very recently these communities did not receive the care and attention they needed from the State, the situation is being corrected gradually but effectively. Great concern is being shown by the central Government with a view to remedying situations of marginalization, and a number of measures have been adopted to recognize the inalienable rights of the indigenous peoples and assist them with specific policies.

6. The fundamental objective of the Colombian Government in recent years has been to take steps, design projects and support initiatives by the indigenous communities to strengthen the three-way relationship between the State, the indigenous peoples and society. All these activities have been carried out through the Ministry of the Interior's Division of Indigenous Affairs (DAI) by the Office of the President of the Republic, using the National Rehabilitation Plan of the National Planning Department (DNP), the National Agrarian Reform Institute (INCORA), the National Institute of Renewable Natural Resources and the Environment (INDERENA), the Ministry of Education, the Ministry of Health, indigenous organizations and other bodies.

7. One of the serious problems which affected the indigenous inhabitants of the Amazon area of Colombia was the wanton destruction of natural resources. Accordingly, the Government introduced and applied in that area the system of national parks and indigenous reservations. The general purpose was to recognize the right of the indigenous communities to the territories traditionally occupied by them, to adopt programmes for the management, conservation, renewal and exploitation of natural resources, to upgrade the reservations by acquiring the developed land owned on them by third parties and allocating them free of charge to indigenous communities, granting lands to the indigenous communities which had none, and extending the reservations dating back to colonial times by acquiring more land.

8. The reservations, whether those of colonial origin or those set up by the National Agrarian Reform Institute (INCORA), are as follows:

| Type of reservation | No. | Total hectares | Persons protected |
|---|---|---|---|
| Colonial | 81 | 399 688 | 156 680 |
| Established by INCORA 1967-86 | 158 | 12 380 780 | 127 697 |
| Established by INCORA 1986-89 | 63 | 13 360 641 | 27 397 |
| Total | 302 | 26 141 109 | 311 774 |

9. The legislation on reservations consists basically of Act No. 135 of 1961, Act No. 31 of 1967 approving the ILO Convention concluded in Geneva in 1957 and the New Agrarian Reform, whereby INCORA itself can set up indigenous reservations.

10. It is important to stress that the above and other legislative measures adopted under the same policy are not intended to divide the population along any racial lines, to prohibit contacts with other racial groups or to restrict the right to freedom of movement or residence. Rather, the purpose is to preserve the cultural heritage by arranging festivities and sports events, and by promoting the use of the language and other traditions of each particular tribe.

11. Moreover, in keeping with the Government's purpose the indigenous communities are guaranteed the right to use the renewable natural resources on their lands and, with the common consent of the various communities, steps have been taken to ensure the monitoring, renewal and sustainable use of those resources. To that end, on the basis of Resolution No. 0997 of 19 September 1987 indigenous inspectors of the natural resources of the reservations were appointed.

12. The Government's steps, far from preventing the racial groups from taking part in the country's political, social, economic and cultural life, and far from creating conditions which might prevent the advancement of those groups, afford them the necessary conditions to organize themselves in accordance with their own usages and customs (Act No. 89 of 1890, annex) and to strengthen indigenous participation in decision-making on policies and programmes affecting them, by creating a series of mechanisms with indigenous participation, such as the Municipal Rehabilitation Councils, the Indigenist Policy Committees and the Sub-Committee of the Commission for the Study and Reform of Mining Legislation.

13. Similarly, the Ministry of Agriculture issued Decree No. 2001 of 28 September 1988 establishing the "cabildos indígenas" (indigenous municipal councils) described as "public entities of a special character" and assigned with the task of governing the indigenous inhabitants and administering their territories. The indigenous population's powers of self-government were also made stronger in regard to the selection, formulation, implementation, control and direct management of small community projects.

14. As a concrete example of political participation by indigenous inhabitants not only at the regional but also at the national level, particular stress should be placed on the participation of two candidates for the National Constituent Assembly, namely Lorenzo Muelas Hurtado and Francisco Rojas Birry. They obtained enough votes to be elected to the Assembly, which, during the first half of 1991, will be called on to adopt amendments to the Colombian Constitution. These indigenous representatives will participate in major decisions to strengthen the fundamental principles that will guide the country in the future.

15. The Government's basic premise has been implementation of the rules on the protection of the indigenous communities and safeguarding their rights on terms of equality with the other nationals, while preventing racial discrimination and punishing those who perform acts of discrimination.

16. With the aim of guaranteeing equal treatment before the law, courses on indigenous legislation have been organized in the various communities; that task was carried out by the Ministry of the Interior's Division of Indigenous Affairs, which provided legal assistance for the preservation of traditional values, community rights, territorial development, renewal of the cabildos and studies on the establishment of foundations, corporations and other legal entities. In particular, steps were taken to prevent violation of the human rights of the indigenous inhabitants in areas of armed confrontation with the guerrillas and, in addition, to implement the law which exempts indigenous inhabitants from military service.

17. In recent years, there have been training programmes to acquaint public bodies with indigenous legislation and to make sure that they respect the cultural values of the communities and that public officials, regardless of their status or post, apply the provisions which protect the rights of those communities. In addition, "Amerindian Thought" and "Human Rights" are programmes broadcast on the radio every Saturday. Furthermore, pamphlets on indigenous legislation have been prepared under the National Rehabilitation Plan as well as a book on the Colombian Government's policy for the defence of indigenous rights and the conservation of the Amazon Basin.

18. Moreover, to promote the welfare of the indigenous peoples and provide them with a stable economy, the Government has supported indigenous initiatives for suitable development of their lands. These programmes have been formulated with due regard for the traditional economic bases of the communities; emphasis has been laid on producing more small surpluses for trading purposes and on guaranteeing basic services and improving infrastructure.

19. Major steps have been taken in farming. In this connection, programmes have related to raising cattle, sheep, and pigs and animal breeding, sugar mills, fish farms, crop improvement and diversification, marketing and low-interest loans.

20. According to the reports of the National Planning Department, in the period August 1986 to May 1990, the Government invested the sum of 21,444,126,000 Colombian pesos.

21. Protection of the right to health of the indigenous inhabitants has been strengthened by providing free medical assistance in accord with the traditional medicine of the various ethnic groups. Steps were taken to implement Resolution No. 10013 of 1981, issued by the Ministry of Health and specifying that health services must be provided with due regard for the cultural characteristics of each community and that both the supply of drugs and medical care for indigenous inhabitants must be free of charge.

22. The right to education is guaranteed by legislative measures, more particularly in recent years by Decree No. 1142 of 1978, which recognizes ethnic pluralism and sets out the right of the indigenous communities to receive education in keeping with their social, cultural and economic characteristics. The main purpose of the entire educational programme has been to enhance the social decision-making capacity of the indigenous inhabitants with regard to their own future, as an essential factor in the exercise of political rights and self-determination.

23. Decree No. 2230 of 1986 set up the National Aboriginal Linguistics Committee, under the Colombian Institute of Anthropology (ICAN), to advise the Government in the formulation of policies for research, dissemination, protection, teaching, the training of experts in ethnolinguistics and the preservation of the Amerindian languages spoken in Colombian territory.

24. To facilitate access by indigenous inhabitants to higher education, bearing in mind that one of the main problems of the indigenous student population on completing secondary education is lack of money to enter university, the National University of Colombia has taken a decision to ensure that 2 per cent of its available places will be set aside for indigenous candidates. Moreover, the "Alvaro Ulcué" Fellowship Fund has been set up, and the finances are managed by the Colombian Institute for Educational Credits and Technical Studies Abroad (ICETEX); the purpose of the Fund is to support indigenous students in their pre-university and pre-graduate studies.

25. The Colombian Government considers that the policy for the protection of the rights of the indigenous peoples cannot be separated from the measures taken for the conservation and preservation of the Earth's environment. In less than two centuries, the industrialized countries have wiped out the fauna and the forests of Europe and North America and have nearly caused the extinction of the indigenous population and the autochthonous races. Uncontrolled development is obviously a threat to the whole of mankind,

leading, as it does, to indiscriminate exploitation of non-renewable natural resources, destruction of the ozone layer, pollution of the seas and the air, acid rain, climate changes, and nuclear tests and disasters.

26. Accordingly, the Amazon region is vital, not only for the welfare of the indigenous communities that live there, but also for the conservation and preservation of the world's environment. Mindful of that fact, Colombia has decided to conserve the ecosystems and to respect the rights of the indigenous inhabitants of the Amazon region. As a result, areas for special management have been created and recognition has been given to the rights of the indigenous inhabitants to ownership of the land, use of natural resources, social and cultural self-determination and full participation in taking decisions that affect them.

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